IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 27525 OF 2007

Dated : December 27, 2007

Between:

Dr. Cheruku Srinivas Rao

Petitioner

AND

The Municipal Corporation,
Karimnagar, Rep. By its Commissioner and another

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 27525 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of Mandamus declaring action of the respondents in recovering the alleged arrears of property tax in respect of House No. 2-10-1177 situated at

Jyothinagar, Karimnagar by distress, in terms of Sec. 269 of the Hyderabad Municipal Corporation Act, 1955 as illegal, arbitrary and contrary to the provisions of Sec. 266 and 268 of the Hyderabad Municipal Corporation Act, 1955, the petitioner filed this writ petition.

The petitioner herein is the owner of the house bearing municipal No. 2-10-1177 situated at Jyothinagar, Karimnagar. After revision, the quantum of annual property tax in respect of the house in question was determined at Rs.5,014.40 Ps. The petitioner assailed the said quantum by filing OS No. 899 of 1986 before the District Munsif, Karimangar, which was decreed on 3.9.1987. The petitioner paid demanded tax of Rs.1995.00 for the period from 1.4.1991 to 31.3.1992. While so, the first respondent issued demand notice No.15517 showing property tax as Rs.8,908/- for the year 2001-2002 and Rs.88,406/- for the period from 1985-2001 demanding to pay a sum of Rs.97,314/-, to which the petitioner submitted his objection. While so, the first respondent issued demand notice dated 13.9.2004 demanding to pay a sum of Rs.3,45,266/- viz., Rs.1,08,165/- towards arrears of tax and Rs.2,34,392/- towards penalty. Though the petitioner expressed his willingness to pay property tax at Rs.5418/- per year from 1.4.1999 to 31.3.2004, there was no reply from the respondent. Later the petitioner submitted representation dated 1.12.2004 to the Chairman of the then Municipality,

willing to pay Rs.32,508/- being the tax for six years from 1.4.1999 to 31.3.2005, which was neither replied nor considered by the respondents.

While so, the first respondent by letter dated 17.12.2004 informed the petitioner that the property tax for the house in question is Rs.1,13,568/- till 31.3.2005 and demanded to pay the same by 31.12.2004 in order to avoid penalty, else the property would be attached through process of court. Subsequently, the first respondent issued demand notice dated 11.5.2005 demanding payment of Rs.1,05,231/- towards arrears of tax and Rs.2,60,780/- towards penalty upto 31.3.2005. Again by demand notice dated 10.10.2006, the first respondent demanded payment of Rs.1,21,710/- towards arrears of property tax and Rs.3,03,062/- towards penalty. The petitioner paid a sum of Rs.21,672/- on 31.7.2006 being tax for the period from 1.4.2003 to 31.3.2007 and also addressed a letter on 26.5.2007 stating that as per the Municipal Corporation of Hyderabad Act, the authorities shall not collect the tax beyond three years.

It is averred that the first respondent without issuing notice in Schedule K and without issuing distress warrant in Schedule L, surprisingly, the 2nd respondent deputed Revenue Inspector, Urban Karimnagar to the house of the petitioner, for attachment of property, which is not in accordance with the law. Hence, the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Respondents.

The learned counsel for the petitioner submits that the petitioner has already paid tax upto 2006-2007 and also submitted a representation dated 26.5.2007 through his counsel, which is said to be still pending consideration with the respondents. He further contends that the petitioner be given liberty to file objections to the impugned notice and the respondents be directed to consider the same.

Evidently, representations submitted by the petitioner from time to time, were not replied by the respondents. The latest representation submitted by the petitioner is 26.5.2007, which he got issued by his counsel.

Therefore, in the facts and circumstances of the case, without adverting to the merits or otherwise of the contentious issues raised on behalf of the petitioner in this writ petition, we grant liberty to the petitioner to file objections to the impugned demand notice within four weeks from today and in the event of such submission of objections, the respondents are directed to consider and dispose of the same within a period of four weeks therefrom. Till such time, no coercive steps shall be taken for recovery of the demanded amount.

With the above directions, the writ petition is disposed of. No order as to costs.

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T.MEENA KUMARI, J.

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G.ROHINI, J.

December 27, 2007

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